

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

OMAR SEGURA,

Plaintiff,

v.

MALDONADO, *et al.*,

Defendants.

Case No. 1:23-cv-00780-JLT-BAM (PC)

ORDER DENYING PLAINTIFF’S MOTION
TO INCLUDE JOHN DOE IN 1983 CIVIL
SUIT
(ECF No. 29)

ORDER DISCHARGING FEBRUARY 5, 2024
ORDER TO SHOW CAUSE
(ECF No. 25)

ORDER GRANTING EXTENSION OF TIME
TO IDENTIFY DEFENDANT JOHN DOE 1
FOR SERVICE OF PROCESS

THIRTY (30) DAY DEADLINE

Plaintiff Omar Segura (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* in this civil rights action pursuant to 42 U.S.C. § 1983. This action proceeds on Plaintiff’s first amended complaint against Defendants Coelho¹ and John Doe 1 for excessive force in violation of the Eighth Amendment.

On October 10, 2023, the Court directed Plaintiff to file a motion to substitute the identity of Defendant John Doe 1 that provides the Court with enough information to locate them for service of process, within ninety days. (ECF No. 11.) Following Plaintiff’s failure to file a motion to substitute or otherwise provide information to identify Defendant John Doe 1, on

¹ Erroneously sued as “Cohello.”

1 February 5, 2024, the Court issued an order requiring Plaintiff to show cause why Defendant John
2 Doe 1 should not be dismissed for failure to prosecute. (ECF No. 25.)

3 On February 20, 2024, Plaintiff filed a motion to include John Doe in 1983 civil suit.
4 (ECF No. 29.) In the motion, Plaintiff states that he would like to gain assistance in locating John
5 Doe because he broke one of Plaintiff's ribs. (*Id.*) As the motion was filed during a stay of this
6 action, Defendant Coelho has not yet had an opportunity to respond. However, the Court finds a
7 response unnecessary, and the motion is deemed submitted. Local Rule 230(l).

8 Plaintiff has not specified what kind of assistance he seeks to identify Defendant John Doe
9 1, or what efforts he has made to identify this defendant. Furthermore, Plaintiff is reminded that
10 it is his responsibility to provide the Court with information to identify this defendant for service
11 of process. Therefore, to the extent Plaintiff requests that he be allowed to proceed against
12 Defendant John Doe 1 without providing further information, or that he be provided with
13 assistance in identifying Defendant John Doe 1, the motion is denied.

14 However, in an abundance of caution, and because discovery in this action was not
15 opened until June 3, 2024, (ECF No. 34), the Court finds it appropriate to grant Plaintiff an
16 extension of time to identify Defendant John Doe 1. The Court further finds that Defendant
17 Coelho will not be prejudiced by the brief extension granted here.

18 If Plaintiff is unable to obtain identifying information for Defendant John Doe 1 by the
19 extended deadline, Plaintiff may file a motion for extension of time that sets forth good cause for
20 the request, including what efforts he has taken to identify this defendant. For example, Plaintiff
21 may include what specific information he has requested, who he has requested the information
22 from, and what responses, if any, he has received. If Plaintiff does not show good cause for a
23 further extension of time, or does not provide any information regarding what steps he has taken
24 to identify Defendant John Doe 1, the Court will dismiss the defendant from this action.

25 Based on the foregoing, it is HEREBY ORDERED that:

- 26 1. Plaintiff's motion to include John Doe in 1983 civil suit, (ECF No. 29), is DENIED;
27 2. The February 5, 2024 order to show cause, (ECF No. 25), is DISCHARGED;

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3. Within **thirty (30) days** from the date of service of this order, Plaintiff SHALL file a motion to substitute the identity of Defendant John Doe 1 that provides the Court with enough information to locate them for service of process; and
4. **If Plaintiff fails to comply with this order, the Court will dismiss the unidentified defendant from this action, without prejudice, for failure to serve with process pursuant to Federal Rule of Civil Procedure 4(m).**

IT IS SO ORDERED.

Dated: June 4, 2024

/s/ Barbara A. McAuliffe
UNITED STATES MAGISTRATE JUDGE